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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,845	03/04/2002	Julio A. Abusleme	108910-00057	4315

7590 12/16/2005

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EXAMINER
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ZACHARIA, RAMSEY E

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/086,845

Applicant(s)

ABUSLEME ET AL.

Examiner

Ramsey Zacharia

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**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 05 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: 4 and 5.  
Claim(s) rejected: 1-3 and 6-16.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

## **RESPONSE TO ARGUMENTS**

The applicants' arguments filed 05 December 2005 have been fully considered but they are not persuasive.

The applicants argue that the achievement of "adhesion" in the present invention is represented by the fact that there is no separation between layers A) and B) even in the absence of an adhesion promoter, crosslinking agent, etc.

However, the claims as amended merely require that there be adhesion between layers A) and B) and do not exclude any adhesion promoting compound or treatment. On the contrary, the applicants admit that the inclusion of diamines and crosslinking agents are not excluded from their claims and do not materially affect the basic and novel characteristics of their invention. As such, there does not appear to be any difference between the claimed invention and that of the prior art. Even if the claimed invention encompasses embodiments not contemplated by the prior art, the fact that it encompasses embodiments of the prior art (as evidenced by the applicants' own admission that compositions comprising diamines and crosslinking agents are not excluded from their invention and claims requiring the presence of diamines) is sufficient to maintain the rejection. There is no requirement that the prior art anticipate or render obvious each and every possible embodiment encompassed by a claim. The only requirement is that each and every recited element must be met. If an element required by the prior art is optionally present in the claimed invention, then there is no patentable distinction between the prior art and the claimed invention.

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The applicants argue that it is unexpected that the same polyamide behaves completely differently to a fluoropolymer containing the acrylic monomer (adhered) as compared to a fluoropolymer without the acrylic monomer.

The examiner disagrees and believes that this is not unexpected. Abusleme recognizes and demonstrates that the fluoropolymer with the acrylic monomer exhibits improved adhesion compared to the fluoropolymer without the acrylic monomer. See Example 3.2 and 4 versus Comparative Example 5. As such, one would expect the fluoropolymer with acrylic monomer to have improved adhesion compared to the fluoropolymer without the acrylic monomer.

Regarding claim 6, the applicants argue that adhesion is obtained without using a crosslinking agent, annealing, or prolonged storage. However, since the claims do not exclude the use of a crosslinking agent, annealing, or prolonged storage, these optional components/process steps are within the scope of the claimed invention. Therefore, prior art that includes crosslinking agent, annealing, or prolonged storage reads on the invention as claimed.

The applicants argue that one skilled in the art would not have been motivated to use the tie layer of Stoeppelmann inside the multilayers of Abusleme et al. to increase adhesion since the multilayers of Abusleme et al. are already adhered by means of a crosslinking agent.

This is not persuasive because one skilled in the art would be motivated to combine the teachings of Stoeppelmann with those of Abusleme et al. for applications in which additional adhesion is desired and/or required.

With respect to the calculation of end group concentration in a polyamide with balanced end groups, such a calculation is necessary because Stoeppelmann does not demonstrate an embodiment. However, Stoeppelmann is clear that adhesion can be obtained using a polyamide


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with balanced end groups through the use of an annealing step at 100-130 °C or storage for several days at room temperature. The polyamide cited by Stoeppelmann and used in the Example has a total end group concentration of 70 µeq/g. Such a polyamide balanced in amino end groups would have a concentration of 35 µeq/g of -NH<sub>2</sub> end groups. The presence or absence of a diamine should have no effect since the diamine is a separate compound and the concentration of end groups is a property of the polymer and not the composition as a whole. The invention as claimed requires the concentration of -NH<sub>2</sub> end groups in the polyamide to be lower than 40 µeq/g, not the concentration of the -NH<sub>2</sub> end groups in layer as a whole.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Zacharia whose telephone number is (571) 272-1518. The examiner can normally be reached on Monday through Friday from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney, can be reached at (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Ramsey Zacharia**  
Primary Examiner  
Tech Center 1700